

ITEM NO.1501
(For Judgment)

COURT NO.3

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(S). 1822/2007

M/S. TATA MOTORS LTD.

APPELLANT(S)

VERSUS

THE DEPUTY COMMISSIONER OF COMMERCIAL
TAXES(SPL) & ANR.

RESPONDENT(S)

([HEARD BY : HON'BLE K.M. JOSEPH, HON'BLE B.V. NAGARATHNA AND
HON'BLE AHSANUDDIN AMANULLAH, JJ.])

WITH

C.A. No. 1446/2010 (XV)

C.A. No. 3827/2011 (XV)

C.A. No. 5815/2012 (XV)

C.A. No. 3856/2013 (XV)

SLP(C) No. 12119/2017 (XI)

SLP(C) No. 11509/2017 (XI)

(IA No. 1/2017 - EXEMPTION FROM FILING O.T.)

C.A. No. 11724/2018 (IV-C)

FOR EXEMPTION FROM FILING O.T. ON IA 158901/2018

IA No. 158901/2018 - EXEMPTION FROM FILING O.T.)

C.A. No. 3821/2011 (XV)

SLP(C) No. 15642-15643/2011 (XV)

(FOR CONDONATION OF DELAY IN FILING ON IA 1/2011

IA No. 1/2011 - CONDONATION OF DELAY IN FILING)

C.A. No. 5967/2011 (XII-A)

C.A. No. 5969/2011 (XII-A)

SLP(C) No. 28859/2011 (XV)

(FOR EXEMPTION FROM FILING O.T. ON IA 2/2011

IA No. 2/2011 - EXEMPTION FROM FILING O.T.)

C.A. No. 2756/2012 (IX)

C.A. No. 1821/2007 (IV-A)

C.A. No. 4019/2011 (XI-A)

C.A. No. 4021/2011 (XI-A)

C.A. No. 3822/2011 (XV)

SLP(C) No. 25905/2013 (XV)

SLP(C) No. 31698-31702/2013 (XI-A)

C.A. No. 4516/2018 (IV-C)

(FOR EXEMPTION FROM FILING O.T. ON IA 52522/2018

IA No. 52522/2018 - EXEMPTION FROM FILING O.T.)

C.A. No. 9979/2018 (III)

(FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT ON IA 111403/2018

FOR PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES ON IA 114056/2018

IA No. 111403/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 114056/2018 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

C.A. No. 10924/2018 (III)

C.A. No. 6172/2009 (XV)

C.A. No. 3824/2011 (XV)

C.A. No. 3825-3826/2011 (XV)

C.A. No. 3823/2011 (XV)

SLP(C) No. 5447/2014 (IV-A)

SLP(C) No. 5449-5451/2014 (IV-A)

SLP(C) No. 12280/2014 (XI-A)

SLP(C) No. 12806-12808/2016 (III)

(FOR CONDONATION OF DELAY IN FILING ON IA 1/2016

IA No. 1/2016 - CONDONATION OF DELAY IN FILING)

C.A. No. 3004-3006/2017 (XV)

SLP(C) No. 14260/2007 (XI-A)

(FOR [PERMISSION TO FILE ANNEXURES] ON IA 1/2016

IA No. 1/2016 - PERMISSION TO FILE ANNEXURES)

C.A. No. 3820/2011 (XV)

Date : 15-05-2023 These matters were called on for pronouncement of Judgment today.

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Mr. Naresh Kumar, AOR

Mr. Alok Sangwan, Adv.
Mr. Sumit Kumar Sharma, Adv.

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Mr. Sunny Choudhary, AOR
Ms. Radhika S. Adv.
Mr. Shivang Rawat, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Hon'ble Mrs. Justice B.V. Nagarathna, pronounced the signed Reportable Judgment in the matters Bench comprising of Hon'ble Mr. Justice K. M. Joseph, Her Ladyship and Hon'ble Mr. Justice Ahsanuddin Amanullah.

Leave granted.

The operative part of the signed Reportable Judgment reads as under:-

"70. In the circumstances, the reference is answered in the following terms:

- i) The judgment of this Court in *Mohd. Ekram Khan* is applicable to a situation where a manufacturer issues a credit note to a dealer acting under a warranty given by the manufacturer pursuant to a sale of an automobile in the following situations. The dealer replaces a defective part of the automobile by a spare part maintained in the stock of the dealer or when the same is purchased by the dealer from the open market. In such situations, the credit note issued in the name of the dealer is a valuable consideration for a transfer of property in the spare part made by the dealer to the customer and hence a sale within the meaning of the sales tax legislations of the respective States

under consideration. The value in the credit note is thus exigible to sales tax under the respective sales tax enactments under consideration.

- ii) The judgment in *Mohd. Ekram Khan* does not apply to a case where the dealer has simply received a spare part from the manufacturer of the automobile so as to replace a defective part therein under a warranty collateral to the sale of the automobile. In such a situation also, the dealer may receive a consideration for the purpose of the service rendered by him as a dealer under a dealership agreement or any other agreement akin to an agent of the manufacturer which is not a sale transaction.

On the above understanding of the judgment of this Court in *Mohd. Ekram Khan*, we are of the view that the same does not call for any interference.

In light of the above, in our view, overruling of the judgments in the case of *Prem Motors* and *Geo Motors* in *Mohd. Ekram Khan*, is just and proper.

- (iii) It is reiterated that a credit note issued by a manufacturer to the dealer, in the situations explained above, is a valuable consideration within the meaning of the definition of sale and hence, exigible to sales tax under the respective State enactments of the States under consideration. In the result, appellants-dealer/assessee are liable to pay sales tax under the respective State enactments under consideration.

- (iv) In view of the above, the appeals filed by the dealers are dismissed. The appeals filed by the revenue are allowed.

Parties to bear their respective costs."

Pending application(s), if any, stand disposed of.

(JAGDISH KUMAR)
COURT MASTER (SH)

(RENU KAPOOR)
ASSISTANT REGISTRAR

(Original signed Reportable Judgment is placed on the file)